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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,339	01/25/2005	Stephen Benjamin Courtney	424662009900	8765

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MORRISON & FOERSTER LLP  
1650 TYSONS BOULEVARD  
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MCLEAN, VA 22102

EXAMINER
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WILSON, LEE D

ART UNIT	PAPER NUMBER
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3723

MAIL DATE	DELIVERY MODE
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09/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,339	<b>Applicant(s)</b> COURTNEY, STEPHEN	
	<b>Examiner</b> LEE D. WILSON	<b>Art Unit</b> 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20,22-30 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20,22-30 and 33-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/10/08</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11, 13-18, 20, 22-30, and 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Embree et al (6277164).

Embree et al discloses the claimed invention as recited in claims 1-11, 13-18, 20, 22-30, and 33-34. Embree et al disclose an appliance having a main body (111) with a rolling surface (90b and the other wheel), A shell (123b&232), fluid inlets and outlets (30), inlet and outlet ducts (240), a means of separating matter (80 or fliter).

3. Claims 1-18, 20, 22-30, and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Wright et al (6745432).

Wright et al discloses the claimed invention as recited in claims 1-11, 13-18, 20, 22-30, and 33-34. Wright et al disclose an appliance having a handle (20), a main body (B&C) with a rolling surface (38 and whereby the whole body becomes a rolling surface), A shell (123b&232), fluid inlets and outlets (40&42),

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inlet and outlet ducts (240), a hatch (50), and a means of separating matter (180 or filter).

***Claim Rejections - 35 USC § 103***

**4.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5.** Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Embree et al (6277164) in view of Park et al (5839156).

a. Embree et al are discussed above and disclose the claimed invention except for an impeller. Park et al discloses that the claim would have been obvious because technique for exchanging motor (22&23) is known improving vacuum cleaners with different known motor was part of the ordinary capabilities of a person of ordinary skill in the art in view of the teaching of the exchanging motors for simple improvements to achieve a predictable result.

**6.** Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Embree et al (6277164) in view of Wright et al (6745432).

b. Wright et al are discussed above and disclose the claimed invention except for an impeller. Park et al discloses that the claim would have been obvious because technique for exchanging motor (22&23) is known improving vacuum cleaners with different known motor was part of the ordinary capabilities

of a person of ordinary skill in the art in view of the teaching of the exchanging motors for simple improvements to achieve a predictable result.

### ***Response to Arguments***

**7. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.**

- a. New art was applied which eliminated the previous allowable subject matter.
- b. In regard to the previous rejection, claim one has been amended but it does not read over the prior art. It is better defined but it still reads on the rejections of reference. That is why the previous rejection is still valid and new art was uncovered due to the amendments.

### ***Conclusion***

**8.** Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D. WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ldw

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/LEE D WILSON/

Primary Examiner, Art Unit 3723

September 4, 2008